



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1194 (Enforcement Proceeding)]

Certain High-Density Fiber Optic Equipment and Components Thereof; Notice of a Commission Determination Not to Review an Initial Determination Terminating the Enforcement Proceeding Based on a Settlement Agreement; Termination of the Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 46) of the presiding administrative law judge (“ALJ”), granting a joint motion to terminate the enforcement proceeding based on settlement. The enforcement proceeding is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on March 24, 2020, based on a complaint filed on behalf of Corning Optical Communications LLC (“Corning”) of Charlotte, North Carolina. 85 FR 16653 (Mar. 24, 2020). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain high-density fiber optic equipment and components thereof by reason of infringement of certain claims of U.S. Patent Nos.

9,020,320 (“the ’320 patent”); 10,120,153 (“the ’153 patent”); 8,712,206; 10,094,996; and 10,444,456 (“the ’456 patent”). *Id.* The Commission’s notice of investigation named numerous respondents including Panduit Corporation of Tinley, Illinois (“Panduit”). *Id.* The notice of investigation also named the Office of Unfair Import Investigations (“OUII”) as a party. *Id.* at 16654. The full investigation background is in the final termination notice. 86 FR 43564-65 (Aug. 9, 2021).

On August 3, 2021, the Commission found, *inter alia*, that Panduit violated section 337 with respect to claims 1 and 3 of the ’320 patent; claims 11, 12, 14-16, 19, 21, 27, and 28 of the ’456 patent; and claims 9, 16, 23, and 26 of the ’153 patent. *Id.* at 43565. Specifically, the Commission found that Panduit’s imported articles were used by customers to directly infringe the asserted claims of the ’320, ’456, and ’153 patents at Panduit’s inducement. *Id.* The Commission issued, *inter alia*, a general exclusion order (“GEO”) and a cease and desist order (“CDO”) against Panduit and determined that a bond as set forth in the Orders was required during the period of Presidential review. 19 U.S.C. 1337(j)(3).

On November 24, 2021, Corning filed a complaint requesting that the Commission institute an enforcement proceeding under Commission Rule 210.75, 19 CFR 210.75, to investigate alleged violations of the GEO and CDO by Panduit.

The Commission instituted an enforcement proceeding on January 3, 2022. 87 FR 112 (Jan. 3, 2022). The original presiding ALJ set a 12-month target date of January 3, 2023, making the enforcement initial determination due on October 3, 2022. On June 21, 2022, the proceeding was reassigned to the Chief ALJ.

On September 30, 2022, Corning and Panduit filed a joint motion to terminate based on a Settlement Agreement and Non-Exclusive Patent License.

On October 17, 2022, the ALJ issued the subject ID (Order No. 46), granting the joint motion pursuant to Commission Rule 210.21(b), 19 CFR 210.21(b). The ALJ found that the motion to terminate complies with the Commission’s rules, and there is no evidence that

terminating the enforcement proceeding by settlement would be contrary to the public interest.

No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID. The enforcement proceeding is terminated based on settlement.

The Commission vote for this determination took place on November 9, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: November 10, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022-24947 Filed: 11/15/2022 8:45 am; Publication Date: 11/16/2022]